

REGION LEGAL SERVICE OFFICE MID-ATLANTIC, LEGAL ASSISTANCE

Virginia Code Early Termination of Lease by Servicemembers

Virginia law allows a servicemember to terminate a residential lease upon certain conditions. Section 55-248.21:1 governs the termination of leases by active duty military personnel. This section applies to all leases even if not specifically and expressly included in the lease.

Under the Virginia law any member of the armed forces of the United States or a member of the National Guard serving on full-time duty or as a Civil Service technician with the National Guard may, terminate his or her rental agreement if the member:

1. Has received **permanent change of station (PCS) orders** to depart **35 miles** or more (radius) from the location of the dwelling unit;
2. Has received **temporary duty orders (TDY)** in excess of three months' duration to depart **35 miles** or more (radius) from the location of the dwelling unit;
3. Is discharged or released from active duty with the armed forces of the United States or from his full-time duty or technician status with the National Guard; or
4. Is ordered to report to government-supplied quarters resulting in the forfeiture of basic allowance for quarters.

Servicemembers who qualify to terminate a rental agreement under this section must provide the landlord a **written notice of termination effective on a specific date** stated in the notice.

The date of termination must be not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given. Additionally, the termination date shall be no more than 60 days prior to the date of departure necessary to comply with the official orders or any supplemental instructions for interim training or duty prior to the transfer.

Prior to the termination date, the servicemember shall furnish the landlord with a copy of the official notification of the orders or a signed letter, confirming the orders, from the tenant's commanding officer.

The landlord may not charge any liquidated damages.

This handout is for information purposes only and is not intended to be legal advice. If you need legal advice and assistance you may see legal advice from your Legal Assistance Office. Legal Assistance Offices can be located at <http://legalassistance.law.af.mil/content/locator.php>

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Differences between Lease Termination under the SCRA and Virginia law

Waiver:

VRLTA - The Virginia Residential Landlord Tenant Act cannot be waived

SCRA - The SCRA can be waived

Termination

VRLTA – Early Termination.

SCRA – Statutory end of contract (not early just over).

Coverage

VRLTA – Residential leases.

SCRA - Premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, or agricultural purposes.

Basis for Termination:

VRLTA – TDY more than 90 days (35 miles), PCS (35 miles), Discharge, Ordered to Govt Quarters.

SCRA – Deploy more the 90 days (no distance limitation), PCS (no distance limitation).

Impact on Dependents

VRLTA – Spouses not covered.

SCRA – Spouses Covered.

Notice

VRLTA -Serve on the landlord a written notice of termination with a set date. Orders to be provided prior to the date for termination.

SCRA - Delivery to landlord written notice of the termination, and a copy of the orders lessor's agent (or the agent's grantee).

Date of Termination

VRLTA – Not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given.

SCRA - 30 days after the next rental payment is due after the date notice under subsection (c) is delivered.

Damages

VRLTA – No liquidated damages (preset fees for damages).

SCRA – No early termination fee.

Enforcement

VRLTA – Private cause of action by servicemember.

SCRA – U.S. Department of Justice, private cause of action, attorney fees to servicemember.

Orders

VRLTA - Official orders or a signed letter, confirming the orders, from commanding officer.

SCRA - Official military orders, or any notification, certification, or verification from the commanding officer.

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